

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 39 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new paragraph and
- 2 insert:
- 3 "SECTION 1. IC 2-5-1.1-6.5 IS AMENDED TO READ AS FOLLOWS
- 4 [EFFECTIVE JULY 1, 2004]: Sec. 6.5. (a) **As used in this section,**
- 5 **"agency" includes an agency, an authority, a board, a bureau, a**
- 6 **commission, a committee, a department, a division, an institution,**
- 7 **or other similar entity created or established by law.**
- 8 (b) The council shall, upon consultation with the governor's office,
- 9 develop an annual report format taking into consideration, among other
- 10 things, program budgeting, with the final format to be determined by
- 11 the council. The format may be distributed to any agency. ~~(as defined~~
- 12 ~~in IC 2-5-21-1):~~ The agency shall complete and return fifteen (15)
- 13 copies to the legislative council before September 1 of each year for the
- 14 preceding fiscal year.
- 15 ~~(b)~~ (c) The council shall distribute one (1) copy to the governor's
- 16 office, one (1) copy to the budget agency, and three (3) copies to the
- 17 state library.
- 18 ~~(c)~~ (d) The reports are a public record and are open to inspection.
- 19 SECTION 2. IC 2-5-28 IS ADDED TO THE INDIANA CODE AS
- 20 A **NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1,**
- 21 **2004]:**
- 22 **Chapter 28. Legislative Office of Accountability**
- 23 **Sec. 1. As used in this chapter, "audit" includes financial,**

1 operational, and performance audits.

2 Sec. 2. As used in this chapter, "office" refers to the
3 legislative office of accountability established under this chapter.

4 Sec. 3. As used in this chapter, "state agency" means any
5 board, commission, department, division, bureau, committee,
6 agency, office, instrumentality, or authority, by whatever name
7 designated, exercising any part of the executive, administrative,
8 judicial, or legislative power of the state.

9 Sec. 4. The legislative council shall establish and maintain a
10 nonpartisan legislative office of accountability to assist the
11 general assembly in the performance of its constitutional
12 responsibilities as a separate and independent branch of state
13 government.

14 Sec. 5. In maintaining the office, the legislative council shall
15 do the following:

16 (1) Establish the qualifications for and employ personnel as
17 are required to carry out the purposes of this chapter,
18 including a director responsible for the supervision of the
19 office.

20 (2) Adopt policies governing the personnel practices of all
21 employees of the office.

22 (3) Determine and direct the work plan of the office.

23 Sec. 6. The office, under the direction of the legislative
24 council, shall do the following:

25 (1) Conduct audits of state agencies, boards, commissions,
26 and bodies corporate and politic created by statute. The
27 audits must be conducted in accordance with generally
28 accepted governmental auditing standards.

29 (2) Examine the books and accounts of the treasurer of
30 state, auditor of state, and the state board of accounts as
31 they related to state revenues and expenditures. These
32 books and accounts may be examined monthly and may
33 include detailed checking of every transaction or test
34 checking.

35 (3) Periodically issue reports to the legislative council and
36 the governor concerning the results of its examinations
37 under this chapter. A report to the legislative council must
38 be in an electronic format under IC 5-14-6.

39 (4) Immediately report in writing to the legislative council,
40 the governor, and the attorney general whenever it appears
41 in the opinion of the director of the office that there may
42 have occurred:

43 (A) any violation of state law; or

44 (B) any instances of misfeasance, malfeasance, or
45 nonfeasance;

46 by an elected or appointed public office holder or employee.

47 (5) Immediately furnish to the attorney general all
48 information in possession of the office regarding any report

1 made under this section.

2 **Sec. 7. (a) This section applies notwithstanding any law**
 3 **concerning the confidentiality of a public record as defined under**
 4 **IC 5-14-3.**

5 **(b) In the discharge of the duties imposed under this chapter,**
 6 **the office:**

7 (1) may require state agencies to preserve and make
 8 available to the office their accounts, records, documents,
 9 vouchers, requisitions, payrolls, canceled checks, and other
 10 evidence of financial or other transactions, whether kept on
 11 paper or electronically;

12 (2) shall be granted entrance to any part of any public
 13 property, or any private property under lease to a state
 14 agency, without notice to the agency responsible for or
 15 occupying the property; and

16 (3) if the chairman of the legislative council gives written
 17 consent, has the power to issue a subpoena or subpoena
 18 duces tecum in aid of its functions under this chapter.

19 **Sec. 8. In the discharge of the duties under this chapter, the**
 20 **office shall have access and the right to copy or otherwise secure**
 21 **all books, accounts, records, files, documents, and**
 22 **correspondence, confidential or otherwise, of any person or state**
 23 **agency subject to audit under this chapter. This section applies:**

24 (1) whether or not the person or state agency has actual
 25 possession of the material sought by the office; and

26 (2) to paper and electronic copies.

27 **Sec. 9. Any power, duty, right of access, or authority granted**
 28 **to the office under this chapter, other than the power of subpoena,**
 29 **may be delegated by the director of the office to the following:**

30 (1) An employee of the office.

31 (2) A private accounting or other professional firm under
 32 contract with the office to conduct financial compliance or
 33 other audit work under this chapter.

34 **Sec. 10. An employee or a contractor of the office, or any**
 35 **other person entitled to access or copy material under sections 8**
 36 **and 9 of this chapter, is subject to the same:**

37 (1) duty of confidentiality imposed by law on; and

38 (2) civil and criminal penalties imposed for violations of the
 39 duty of confidentiality as;

40 **the person or state agency in possession of the material.**

41 **SECTION 3. IC 2-5-21 IS REPEALED [EFFECTIVE JULY 1,**
 42 **2004]."**

43 Renumber all SECTIONS consecutively.

(Reference is to ESB 39 as printed February 20, 2004.)

